



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/171301

PRELIMINARY RECITALS

Pursuant to a petition filed January 11, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on February 04, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly reduced the Petitioner's benefits to \$16.00 effective January 1, 2016.

NOTE: The record was held open until February 13, 2015, to give the Petitioner an opportunity to submit a copy of her lease and sworn affidavits establishing that she does not purchase and prepare meals with the gentleman who lives in her residence. No documentation was received by the designated deadline.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On December 7, 2015, the Petitioner contacted the agency to complete a renewal. The case comment for that date reads as follows:

PP called to complete renewal for FS. PP reported a HH of 1. PP receives SSI. Rent Obligation was \$680/month. Utilities \$233/month. Asked PP how she is paying bills with the income received. PP reported her boyfriend gives her \$350/month. PP then stated he lives in the HH. PP reported they do purchase and prepare meals together. Closed his FS case Added him to the case. PP pays \$330 for rent and [REDACTED] pays \$350. Collected telephonic signature. Ran and confirmed case.

(Exhibit 2, pg. 8.)
3. On December 8, 2015, the agency sent the Petitioner a notice, advising her that as of January 1, 2016, her FoodShare benefits would be reduced from \$194.00 per month to \$16.00 per month. (Exhibit 2, pg. 15)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 11, 2016. (Exhibit 1)
5. Petitioner lives with [REDACTED]. (Testimony of Petitioner)
6. Petitioner helps [REDACTED] go grocery shopping because he is blind and a diabetic. For those same reasons, the Petitioner cooks for [REDACTED]. (Testimony of Petitioner)
7. Total rent for the apartment is \$680 per month. Petitioner incurs a heating expense. (Testimony of Petitioner; Exhibit 2, pg. 14)
8. [REDACTED] receives a net benefit of \$1196 per month in Social Security Disability / Wage Earner Income. The State of Wisconsin pays for his Medicare Part B premium. (Exhibit 2, pg. 13)
9. Petitioner receives \$733 per month in Social Security Disability Income and \$83.78 per month in State SSI. (Exhibit 2, pgs. 10 and 11)

DISCUSSION

Petitioner disagreed with the agency's determination that [REDACTED] should be included in her household.

However, the Federal Regulations mandate [REDACTED]'s inclusion in Petitioner's household:

General household definition. (a) A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:

1. An individual living alone;
2. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
3. **A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.**

Emphasis added. 7 C.F.R. §273.1(a); See in accord, FSH, §§3.3.1.1; 3.3.1.2 and 3.3.1.3.

Petitioner customarily purchases food for [REDACTED] and customarily prepares meals for [REDACTED] because he is blind. Petitioner claims that she eats the meals with [REDACTED] only 7-10 times per month. Petitioner's testimony is not supported by the record. Given that she buys and prepares food with [REDACTED] and given that she previously reported that he was her boyfriend, it is reasonable to conclude that they normally share in the meals and

that the meals are prepared for their home consumption. Consequently, per *FSH §3.3.1*, the Petitioner and [REDACTED] are part of the same household and must be tested for eligibility together.

The remaining question then, is whether the agency correctly calculated the Petitioner's FoodShare benefit.

Petitioner's total household income works out to be:

\$1196 [REDACTED] SSDI
 +\$733 Petitioner's SSI
 +\$83.78 Petitioner's State SSI

\$2012.78 Total Household Income

The following deductions are applied in determining the household's net income:

- (1) a standard deduction –

This is \$155 per month for a household of 1-3 people, 7 *CFR § 273.9(d)(1)*:
 \$168 for four people
 \$197 for five people
 \$226 for six or more people

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR § 273.9(d)(2)*;

Neither Petitioner nor [REDACTED] has earned income, so this deduction does not apply.

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR § 273.9(d)(3)*;

Petitioner did not report any out of pocket medical expenses for herself or [REDACTED].

- (4) dependent care deduction for child care expenses, 7 *CFR § 273.9(d)(4)*; and

Petitioner reported no dependent care deductions

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR § 273.9(d)(5)*.

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\$458
LUA – Limited Utility Allowance	\$293
EUA – Electric Utility Allowance	\$119
WUA-Water and Sewer Utility Allowance	\$78
FUA- Cooking Fuel Allowance	\$46
PUA- Phone Utility Allowance	\$30
TUA – Garbage and Trash Utility Allowance	\$20

There is a cap of \$504.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

It is undisputed that the Petitioner is entitled to the full HSUA of \$458

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective January 1, 2016:

Gross Income	\$2012.78	Rent	\$680.00
No Earned Income Deduction		HSU	+\$458.00
Standard Deduction	-\$155.00	-50% net income	-\$928.89
No Medical Expenses exceeding \$35		<u>before shelter deduction</u>	
No Dependent Care Expenses		Excess Shelter Expense: \$209.11	
<hr/>			
Net Income before shelter deduction	\$1857.78		
Excess Shelter Expense	- \$209.11		
<hr/>			
Net Income	\$1648.67		

Households of two people, with a net income of \$1648.67 are entitled to \$16.00 per month in FoodShare benefits. *FSH §8.1.2*

CONCLUSIONS OF LAW

The agency correctly reduced the Petitioner's benefits to \$16.00 per month effective January 1, 2016.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

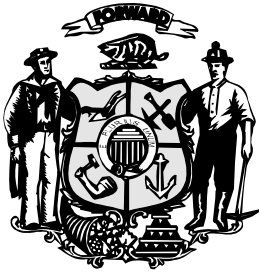
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 1st day of March, 2016.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 1, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability